

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

FILED

OCT 30 2007

William B. Guthrie
Clerk, U.S. District Court

By _____ Deputy Clerk

AUBREY DEAN ELWOOD,

Plaintiff,

v.

JOHN TADLOCK, et al.,

Defendants.

No. CIV 06-176-RAW-SPS

OPINION AND ORDER
DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL


Plaintiff has filed a second motion requesting the court to appoint counsel [Docket #120], in response to the court's scheduling order [Docket #119]. He alleges he has no legal training and is at a great disadvantage in presenting his case to a jury.

Plaintiff still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court has carefully reviewed the merits of plaintiff's claim as set forth in his third amended complaint [Docket #110], the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

ACCORDINGLY, plaintiff's second motion for appointment of counsel [Docket

#120] is DENIED.

IT IS SO ORDERED this 30 day of October 2007.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE